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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,264	05/17/2005	Kenichi Suzuki	000023-065	3874
21839	7590	09/18/2006	EXAMINER	
BUCHANAN, INGERSOLL & ROONEY PC POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			TORRES VELAZQUEZ, NORCA LIZ	
			ART UNIT	PAPER NUMBER

1771

DATE MAILED: 09/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

5

Office Action Summary	Application No. 10/535,264	Applicant(s) SUZUKI ET AL.	
	Examiner Norca L. Torres-Velazquez	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>51705</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim is indefinite as it is not clear what is meant by “*a component in point (a) and a component in point (b) which is symmetric about the center point are the same*”. It is noted, “The use of reference characters is to be considered as having no effect on the scope of the claims.”MPEP 608.01(m) [R-2] Therefore, the language in the claim should be definite enough as to describe the claimed points without the need to refer to the drawings. Are both points symmetric about the center of the fiber cross section?

Claim Rejections - 35 USC § 102/103

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002

Art Unit: 1771

do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-7 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over CLARK et al. (US 6,723,669 B1).

CLARK et al. discloses multicomponent spunbond fibers and webs made from them. The reference describes the use of sheath-core configurations. (Col. 1, lines 11-20; Col. 13, lines 28-50) The reference teaches combinations of polymer components that include polyolefin/polyolefin such as polypropylene/polypropylene. For examples fibers that comprise a first component comprising a first propylene polymer and a second component comprising a second propylene polymer wherein the second propylene polymer has narrow molecular weight distribution and a polydispersity number less than that of the first polypropylene polymer. (Refer to Col. 4, lines 58-63; Col. 5, lines 19-24) The reference also teaches that the multicomponent fibers can comprise a first component comprising a substantially crystalline polypropylene and the second component can comprise an amorphous polypropylene, that is to say a polypropylene polymer having a lower degree of crystallinity. (Col. 5, lines 63-67) In a

Art Unit: 1771

further aspect, a first component can comprise a low melt-flow rate (MFR) polyolefin and a second component can comprises a high MFR olefin polymer. (Col. 7, lines 38-49) The reference further describes laminates and their use in applications such as diapers. (Col. 15, lines 47-59) With regards to claim 2, it is the Examiner's position that a sheath-core bicomponent fiber such as those described by CLARK et al. will produce a fairly symmetrical cross-section fiber.

Although CLARK et al. does not explicitly teach the claimed polymer components having different induction periods of strain-induced crystallization it is reasonable to presume that this property is inherent to polyolefin/polyolefin combinations described by the reference. Support for said presumption is found in the use of like materials (i.e. the reference teaches the use of same kind of polymers with different MFR or different degree of crystallinity used in the production of multicomponent fibers). The burden is upon Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594. In addition, the presently claimed property of polymer components having different induction periods of strain-induced crystallization would obviously have been present one the CLARK et al. product is provided. Note *In re Best*, 195 USPQ at 433, footnote 4 (CCPA 1977) as to the providing of this rejection made above under 35 USC 102. It is noted that the disclosure of the present application describe combinations of polymers having different MFR and different melting points; and polymers having different MFR and the same melting points as polymers having different induction periods of strain-induced crystallization. (as described in [0025]-[0028] of Pub. No. 2006/0052022 A1). It is the Examiner's position that the combinations described above meet the description provided, therefore, must have the claimed difference in induction periods of strain-induced crystallization.

With regards to claim 4, it is the Examiner's position that the nonwoven fabric produced by the fibers of CLARK et al. will possess the claimed extensibility in the MD and/or CD for similar reasons described in the paragraph above.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

DeLucia (US 6,274,238 B1) – discloses a nonwoven fabric containing single polymer conjugate fibers which have at least two substantially the same component compositions.

The component compositions have substantially the same MFR. (Abstract)

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Norca L. Torres-Velazquez whose telephone number is 571-272-1484. The examiner can normally be reached on Monday-Thursday 8:00-5:00 pm and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1771

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Norca L. Torres-Velazquez
Primary Examiner
Art Unit 1771

September 7, 2006